

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.4.2016

CORAM:

THE HON'BLE DR.JUSTICE P.DEVADASS

Review Application No.166/2012 &
M.P.No.1 & 2/2012
in
C.M.A.No.1769/2009 & M.P.No.1/2009

K.Kumaran

Vs.

...

Applicant/7th Respondent

1 United India Insurance Co. Ltd.
Rep. By its Divisional Manager,
Vellore.

2 Radha
3 Minor Dhanush
4 Minor Dhanush
5 Gopi
6 Malli
7 Minor Jeevalakshmi

(3rd, 4th and 7th Respondents
being represented by
their mother and next friend
the 2nd respondent)

... Respondents 2 to 7/ Respondents 1 to 6

PRAYER: Review Application is filed against the decree/judgment/order dated 25.4.2012 passed in the C.M.A.No.1769 of 2009 dismissing the same by confirming the lower court order passed in MCOP No.242 of 2007 yet with a modification therein.

For Applicant : Mr.K.S.V.Prasad
For R-1 : Mr.S.Arunkumar
For R-2 to R-6 : Mr.E.Kannadasan
For R-7 : Mr.S.Pushpakaran

ORDER

This review application has been taken out by 7th respondent in in C.M.A.No.1769 of 2009 to review this Court's judgment, dated 25.4.2012.

2 Heard the learned counsel for the review applicant and also respondent/insurer and also the respondent/Claimants.

3 This Court on 25.4.2012 upon hearing the respective counsels and upon consideration of the records delivered the judgment, now sought to be reviewed.

4 In the Judgment stated supra, while affirming the award of the Motor Accident Claims Tribunal, Tirupattur, Vellore District granting compensation to respondent Nos.1 to 6, directed the appellant/Insurer to pay the adjudicated compensation amount to them and recover the same from respondent No.7, who is the review applicant herein.

5 The review applicant submits that this Court instead of

dismissing the appeal filed by the Insurance Company ought not to have modified by directing the Insurance Company/appellant to pay the compensation amount to the claimants and recover the same from the review applicant/respondent No.7 when especially the driver of the offending vehicle was holding Light Motor Vehicle Licence and the only allegation as against him is that at the time of accident he was drunk and there was no violation of the terms and conditions of the policy. Thus, there is error apparent on the face of the record, thus, the judgment is required to be reviewed.

6 A review in form and appeal in reality cannot form a review. Re-appreciation of evidence and re-adjudication of the concluded issues will not give a cause for review. The matters which ought to have been placed before an Appellate forum, cannot give cause of action to review the judgment.

7 Recently, on 26.4.2016, a Division Bench of this Court comprising myself (Dr.Justice P.Devadass) and Mr.Justice Satish K.Agnihotri in *Review Application No.51 to 53 of 2016 (P.Jayaraman and 2 others vs. The Government of Tamilnadu represented by the Secretary to Govt., Backward Classes and Most Backward Classes Welfare Department, Fort St. George, Chennai 600 009)* observed as under:

"7 The review is not a substitute of appeal. An appeal in reality but review in form will not form a case for review. There cannot be camouflaged appeal dressed up a review. Under the guise of review, there cannot be re-examination or re-agitation of the issue nor side-tracking the issue. The ambit and scope of a review/Review Court and appeal/ Appellate Court are not analogous. Had it been argued in one fashion, the outcome of the judgment would be different, could not be a ground to review the judgment. An opportunity to approach the case from different perspective will not give cause of action for review. What could be said before the appellate Court could not be permitted to be said before the review Court."

8 What the learned counsel for the review applicant wants is re-examination and re-appreciation of the evidence and the concluded issue in the judgment, dated 25.4.2012 from a different angle, perspective. This cannot be done in a Review application. In the circumstances, no valid ground for review has been made.

9 Thus, this Review Application is dismissed. Consequently, connected M.P.Nos.1 and 2 of 2012 is closed.

29.4.2016

Index : Yes/No.

Internet : Yes/No.

Kua/vaan

To

- 1 The Motor Accident Claims Tribunal
(The Additional District Judge,
formerly F.T.C.),
Tirupattur,
Vellore District

- 2 The Divisional Manager,
United India Insurance Co. Ltd.,
Vellore.

Dr.P.DEVADASS, J.

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